IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL APPEAL NO. 422 OF 1992.

The State of Maharashtra. ..Appellant.

vs.

1. Shri Harakchand Khetashi Maru.
2. Shri Jayantilal Khetashi Maru.
3. M/s Novelty Stores. .. Respondent.

Shri A.S. Shitole, A.P.P. for the State.
None for the respondents.

CORAM: V.M.KANADE,J.
DATED: 14-1-2005.

ORAL JUDGMENT:

1. Heard learned A.P.P. for the State.

2. The respondents were acquitted by the trial Court of the offence punishable under section 7(v) of the Food Adulteration Act read with rules 29 and 44 (g) of the Prevention of Food Adulteration Rules 1955 read with section 16 of the F.A. Act.

3. The trial Court acquitted the accused on the ground that the mandatory provisions of Rule 15 were not complied with. Admittedly, label was not put on the polythene bag in which sample was kept but label was put on the brown paper which was used as wrapper on the polythene bag.

4. I do not see any infirmity in the view taken by the trial Court. It is essential that identity of the container in which sample is kept should be properly secured by putting a label on the container itself. In the present case, label was put on the brown paper which was used as a wrapper. Thus, identity of the polythene bag becomes doubtful and possibility of tampering with polythene bag cannot be ruled out. Moreover, accused have been acquitted by order dated 4.10.1991, more than 14 years have passed. In these circumstances, I do not feel that this is a fit case which calls for interference while exercising jurisdiction under section 378 of the Criminal Procedure Code.

5. Appeal is accordingly dismissed.